

AMENDED IN SENATE JANUARY 4, 2012

AMENDED IN SENATE AUGUST 30, 2011

AMENDED IN ASSEMBLY MARCH 7, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 272

Introduced by Assembly Member Monning

February 7, 2011

An act to amend Section 15438 of, and to add Section 15438.10 to, the Government Code, relating to health facilities financing, and making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 272, as amended, Monning. Health care facilities: financing.

The California Health Facilities Financing Authority Act authorizes the California Health Facilities Financing Authority to make loans from the continuously appropriated California Health Facilities Financing Authority Fund to participating health institutions for financing or refinancing the acquisition, construction, or remodeling of health facilities. The act defines a health facility to include various specified facilities and facilities operated in conjunction with these facilities. It also defines a participating health institution to mean specified entities authorized by state law to provide or operate a health facility and undertake the financing or refinancing of the construction or acquisition of a project or of working capital, as defined.

Existing law authorizes the authority to award grants to any eligible health facility, as defined, for purposes of financing defined projects.

This bill would authorize the authority to award one or more grants that, in the aggregate, do not exceed \$1,500,000 to one or more projects designed to demonstrate new or enhanced *cost-effective* methods of delivering health care services, as specified. This bill would authorize the authority to award additional grants that, in the aggregate, do not exceed \$5,000,000 to eligible recipients, as defined by the authority, to replicate the model developed by a project, if specified conditions are met, and would authorize the authority to adopt regulations relating to this grant program as emergency regulations. *This bill would create the California Health Access Model Program Account in the California Health Facilities Financing Authority Fund, and would transfer up to \$6,500,000 from the fund to the account for the purposes of the bill. The bill would require that any moneys remaining in the account as of January 1, 2020, revert to the fund.* By expanding the purposes for which a continuously appropriated fund may be used, this bill would make an appropriation.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~^{2/3}. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 15438 of the Government Code is
- 2 amended to read:
- 3 15438. The authority may do any of the following:
- 4 (a) Adopt bylaws for the regulation of its affairs and the conduct
- 5 of its business.
- 6 (b) Adopt an official seal.
- 7 (c) Sue and be sued in its own name.
- 8 (d) Receive and accept from any agency of the United States,
- 9 any agency of the state, or any municipality, county, or other
- 10 political subdivision thereof, or from any individual, association,
- 11 or corporation gifts, grants, or donations of moneys for achieving
- 12 any of the purposes of this chapter.
- 13 (e) Engage the services of private consultants to render
- 14 professional and technical assistance and advice in carrying out
- 15 the purposes of this part.
- 16 (f) Determine the location and character of any project to be
- 17 financed under this part, and to acquire, construct, enlarge, remodel,

renovate, alter, improve, furnish, equip, fund, finance, own, maintain, manage, repair, operate, lease as lessee or lessor, and regulate the same, to enter into contracts for any or all of those purposes, to enter into contracts for the management and operation of a project or other health facilities owned by the authority, and to designate a participating health institution as its agent to determine the location and character of a project undertaken by that participating health institution under this chapter and as the agent of the authority, to acquire, construct, enlarge, remodel, renovate, alter, improve, furnish, equip, own, maintain, manage, repair, operate, lease as lessee or lessor, and regulate the same, and as the agent of the authority, to enter into contracts for any or all of those purposes, including contracts for the management and operation of that project or other health facilities owned by the authority.

(g) Acquire, directly or by and through a participating health institution as its agent, by purchase solely from funds provided under the authority of this part, or by gift or devise, and to sell, by installment sale or otherwise, any lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and other interests in lands, including lands lying under water and riparian rights, that are located within the state that the authority determines necessary or convenient for the acquisition, construction, or financing of a health facility or the acquisition, construction, financing, or operation of a project, upon the terms and at the prices considered by the authority to be reasonable and that can be agreed upon between the authority and the owner thereof, and to take title thereto in the name of the authority or in the name of a participating health institution as its agent.

(h) Receive and accept from any source loans, contributions, or grants for, or in aid of, the construction, financing, or refinancing of a project or any portion of a project in money, property, labor, or other things of value.

(i) Make secured or unsecured loans to, or purchase secured or unsecured loans of, any participating health institution in connection with the financing of a project or working capital in accordance with an agreement between the authority and the participating health institution. However, no loan to finance a project shall exceed the total cost of the project, as determined by the participating health institution and approved by the authority.

1 Funds for secured loans may be provided from the California
2 Health Facilities Financing Fund pursuant to subdivision (b) of
3 Section 15439 to small or rural health facilities pursuant to
4 authority guidelines.

5 (j) (1) Make secured or unsecured loans to, or purchase secured
6 or unsecured loans of, any participating health institution in
7 accordance with an agreement between the authority and the
8 participating health institution to refinance indebtedness incurred
9 by that participating health institution or a participating health
10 institution that controls or manages, is controlled or managed by,
11 is under common control or management with, or is affiliated with
12 that participating health institution, in connection with projects
13 undertaken or for health facilities acquired or for working capital.

14 (2) Make secured or unsecured loans to, or purchase secured or
15 unsecured loans of, any participating health institution in
16 accordance with an agreement between the authority and the
17 participating health institution to refinance indebtedness incurred
18 by that participating health institution or a participating health
19 institution that controls or manages, is controlled or managed by,
20 is under common control or management with, or is affiliated with
21 that participating health institution, payable to the authority or
22 assigned or pledged to authority issued bonds.

23 (3) Funds for secured loans may be provided from the California
24 Health Facilities Financing Fund pursuant to subdivision (b) of
25 Section 15439 to small or rural health facilities pursuant to
26 authority guidelines.

27 (k) Mortgage all or any portion of interest of the authority in a
28 project or other health facilities and the property on which that
29 project or other health facilities are located, whether owned or
30 thereafter acquired, including the granting of a security interest in
31 any property, tangible or intangible, and to assign or pledge all or
32 any portion of the interests of the authority in mortgages, deeds
33 of trust, indentures of mortgage or trust, or similar instruments,
34 notes, and security interests in property, tangible or intangible, of
35 participating health institutions to which the authority has made
36 loans, and the revenues therefrom, including payments or income
37 from any thereof owned or held by the authority, for the benefit
38 of the holders of bonds issued to finance the project or health
39 facilities or issued to refund or refinance outstanding indebtedness
40 of participating health institutions as permitted by this part.

1 (l) Lease to a participating health institution the project being
2 financed or other health facilities conveyed to the authority in
3 connection with that financing, upon the terms and conditions the
4 authority determines proper, charge and collect rents therefor,
5 terminate the lease upon the failure of the lessee to comply with
6 any of the obligations of the lease, and include in that lease, if
7 desired, provisions granting the lessee options to renew the term
8 of the lease for the period or periods and at the rent, as determined
9 by the authority, purchase any or all of the health facilities or that
10 upon payment of all of the indebtedness incurred by the authority
11 for the financing of that project or health facilities or for refunding
12 outstanding indebtedness of a participating health institution, then
13 the authority may convey any or all of the project or the other
14 health facilities to the lessee or lessees thereof with or without
15 consideration.

16 (m) Charge and equitably apportion among participating health
17 institutions, the administrative costs and expenses incurred by the
18 authority in the exercise of the powers and duties conferred by this
19 part.

20 (n) Obtain, or aid in obtaining, from any department or agency
21 of the United States or of the state, any private company, or any
22 insurance or guarantee as to, of, or for the payment or repayment
23 of, interest or principal, or both, or any part thereof, on any loan,
24 lease, or obligation, or any instrument evidencing or securing the
25 loan, lease, or obligation, made or entered into pursuant to this
26 part; and notwithstanding any other provisions of this part, to enter
27 into any agreement, contract, or any other instrument whatsoever
28 with respect to that insurance or guarantee, to accept payment in
29 the manner and form as provided therein in the event of default
30 by a participating health institution, and to assign that insurance
31 or guarantee as security for the authority's bonds.

32 (o) Enter into any and all agreements or contracts, including
33 agreements for liquidity or credit enhancement, bond exchange
34 agreements, interest rate swaps or hedges, execute any and all
35 instruments, and do and perform any and all acts or things
36 necessary, convenient, or desirable for the purposes of the authority
37 or to carry out any power expressly granted by this part.

38 (p) Invest any moneys held in reserve or sinking funds or any
39 moneys not required for immediate use or disbursement, at the
40 discretion of the authority, in any obligations authorized by the

1 resolution authorizing the issuance of the bonds secured thereof
2 or authorized by law for the investment of trust funds in the custody
3 of the Treasurer.

4 (q) Award grants to any eligible clinic pursuant to Section
5 15438.6.

6 (r) Award grants to any eligible health facility pursuant to
7 Section 15438.7.

8 (s) (1) Notwithstanding any other provision of law, provide a
9 working capital loan of up to five million dollars (\$5,000,000) to
10 assist in the establishment and operation of the California Health
11 Benefit Exchange (Exchange) established under Section 100500.
12 The authority may require any information it deems necessary and
13 prudent prior to providing a loan to the Exchange and may require
14 any term, condition, security, or repayment provision it deems
15 necessary in the event the authority chooses to provide a loan.
16 Under no circumstances shall the authority be required to provide
17 a loan to the Exchange.

18 (2) Prior to the authority providing a loan to the Exchange, a
19 majority of the board of the Exchange shall be appointed and shall
20 demonstrate, to the satisfaction of the authority, that the federal
21 planning and establishment grants made available to the Exchange
22 by the United States Secretary of Health and Human Services are
23 insufficient or will not be released in a timely manner to allow the
24 Exchange to meet the necessary requirements of the federal Patient
25 Protection and Affordable Care Act (Public Law 111-148).

26 (3) The Exchange shall repay a loan made under this subdivision
27 no later than June 30, 2016, and shall pay interest at the rate paid
28 on moneys in the Pooled Money Investment Account.

29 (t) Award grants pursuant to Section 15438.10.

30 ~~SECTION 1.~~

31 *SEC. 2.* Section 15438.10 is added to the Government Code,
32 to read:

33 15438.10. (a) The Legislature finds and declares the following:

34 (1) Many Californians face serious obstacles in obtaining needed
35 health care services, including, but not limited to, medical, mental
36 health, and dental services. The obstacles *faced by vulnerable*
37 *populations and communities* include the existence of complex
38 medical, physical, or social conditions, ~~including~~ disabilities,
39 economic disadvantage, and living in remote or underserved areas
40 that make it difficult to access services.

1 (2) With the recent passage of national health care reform, there
2 is an increased demand for innovative ways to deliver health care
3 to individuals in a cost-effective manner.

4 (3) Technological innovation continues to create opportunities
5 for developing new methods of delivering needed services to
6 ~~underserved communities and individuals~~ *vulnerable populations*
7 *and communities* cost-effectively and with improved health
8 outcomes.

9 (4) There is a need to develop new methods of delivering health
10 services utilizing innovative models that can be demonstrated to
11 be effective and then replicated throughout California and that
12 bring ~~needed~~ *community-based health* care to individuals ~~in need~~
13 where they live or receive education, social, or general health
14 services.

15 (5) For more than 30 years, the California Health Facilities
16 Financing Authority has provided financial assistance through
17 tax-exempt bonds, ~~low interest~~ *low-interest* loans, and grants to
18 health facilities in California, assisting in the expansion of the
19 availability of health services and health care facilities throughout
20 the state.

21 (b) (1) Following the completion of a competitive selection
22 process that shall be exempt from the competitive bidding
23 requirements of Chapter 2 (commencing with Section 10290) of
24 Part 2 of Division 2 of the Public Contract Code, the authority may
25 award one or more grants that, in the aggregate, do not exceed one
26 million five hundred thousand dollars (\$1,500,000) to one or more
27 projects designed to demonstrate specified new or enhanced
28 *cost-effective* methods of delivering health care services to improve
29 access to quality health care for ~~underserved or medically~~
30 *vulnerable populations or communities*, or both, that are effective
31 at enhancing health outcomes, ~~reducing costs~~, and improving access
32 to *quality health* care. These health care services may include, but
33 are not limited to, medical, mental health, or dental services for
34 the diagnosis, care, prevention, and treatment of human illness, or
35 individuals with physical, mental, or developmental disabilities.
36 More than one demonstration project may receive a grant pursuant
37 to this section. It is the intent of the Legislature for a demonstration
38 project that receives a grant to allow patients to receive screenings,
39 diagnosis, ~~and or~~ treatment in community settings, including, but
40 not limited to, school-based health centers, adult day care centers,

1 and residential care facilities for the elderly, ~~and or~~ for individuals
2 with mental illness or developmental disabilities. It is also the
3 intent of the Legislature for a demonstration project that receives
4 a grant to take advantage of advances in telecommunications
5 technologies that will produce a more accessible and cost-effective
6 delivery system for needed services and improved health outcomes.

7 (2) A grant awarded pursuant to this subdivision may be
8 allocated in increments to a demonstration project over multiple
9 years to ensure the *demonstration project's* ability ~~of each~~
10 ~~demonstration project~~ to complete its work, as determined by the
11 authority. Prior to the initial allocation of funds pursuant to this
12 subdivision, the administrators of the demonstration project shall
13 provide evidence that the demonstration project has or will have
14 additional funds sufficient to ensure completion of the
15 demonstration project. If the authority allocates a grant in
16 increments, each subsequent year's allocation shall be provided
17 to the demonstration project only upon submission of research that
18 shows that the project is progressing towards the identification of
19 ~~a community-based, cost-effective delivery model that addresses~~
20 ~~obstacles to receiving health care services in more traditional~~
21 ~~settings,~~ improves health outcomes *and access to quality health*
22 *care* for vulnerable populations *or communities*, and can be
23 replicated throughout the state *in community settings*.

24 (3) *A health facility that has received tax-exempt bond financing*
25 *from the authority shall not be eligible to receive funds awarded*
26 *for a demonstration project. Such a health facility may participate*
27 *as an uncompensated partner or member of a collaborative effort*
28 *that is awarded a demonstration project grant.*

29 (c) (1) If a demonstration project that receives a grant pursuant
30 to subdivision (b) is successful at developing a new method of
31 ~~delivering cost-effective community-based~~ *cost-effective* health
32 care services *in community settings* that result in *increased access*
33 *to quality health care* or improved health care outcomes, then,
34 ~~beginning in as early as the third~~ *second* year after the initial
35 allocation of moneys provided pursuant to subdivision (b), the
36 authority may implement a second grant program that awards not
37 more than five million dollars (\$5,000,000), in the aggregate, to
38 eligible recipients as defined by the authority, to replicate in
39 additional California communities the model developed by a
40 demonstration project that received a grant pursuant to subdivision

1 (b). *The award of these replication grants shall be exempt from*
2 *the competitive bidding requirements of Chapter 2 (commencing*
3 *with Section 10290) of Part 2 of Division 2 of the Public Contract*
4 *Code.* Prior to the implementation of this second grant program,
5 the authority shall prepare and provide a report to the Legislature
6 and the Governor on the outcomes of the demonstration project.
7 The report shall be made in accordance with Section 9795.

8 (2) If the authority implements the second grant program, the
9 authority shall also report annually, beginning with the first year
10 of implementation of the second grant program, to the Legislature
11 and the Governor regarding the program, including, but not limited
12 to, the total amount of grants issued pursuant to this subdivision,
13 the amount of each grant issued, and a description of each
14 ~~demonstration~~ project awarded funding *for replication of the model.*

15 (3) Grants under this subdivision may be utilized for eligible
16 costs, as defined in subdivision (c) of Section 15432, including
17 equipment, information technology, and working capital, as defined
18 in subdivision (h) of Section 15432.

19 (4) The authority may adopt regulations relating to the grant
20 program authorized pursuant to this subdivision, including
21 regulations that define eligible recipients, eligible costs, and
22 minimum and maximum grant amounts, as emergency regulations
23 in accordance with Chapter 3.5 (commencing with Section 11340)
24 of Part 1 ~~of Division 3 of Title 2.~~ For purposes of Chapter 3.5
25 (commencing with Section 11340) of Part 1 ~~of Division 3 of Title~~
26 ~~2,~~ including Section 11349.6, the adoption of the regulations shall
27 be considered by the Office of Administrative Law to be necessary
28 for the immediate preservation of the public peace, health and
29 safety, and general welfare.

30 (d) *There is hereby created the California Health Access Model*
31 *Program Account in the California Health Facilities Financing*
32 *Authority Fund. All moneys in the account are hereby continuously*
33 *appropriated to the authority for carrying out the purposes of this*
34 *section. An amount of up to six million five hundred thousand*
35 *dollars (\$6,500,000) shall be transferred from funds in the*
36 *California Health Facilities Financing Authority Fund that are*
37 *not impressed with a trust for other purposes into the California*
38 *Health Access Model Program Account for the purpose of issuing*
39 *grants pursuant to this section. Any moneys remaining in the*
40 *California Health Access Model Program Account on January 1,*

1 2020, shall revert as of that date to the California Health Facilities
2 Financing Authority Fund.

3 SEC. 3. This act is an urgency statute necessary for the
4 immediate preservation of the public peace, health, or safety within
5 the meaning of Article IV of the Constitution and shall go into
6 immediate effect. The facts constituting the necessity are:

7 In order to assist underserved and vulnerable health care
8 populations at the earliest possible time, it is necessary that this
9 act take effect immediately.

O